Remarks

The undersigned's Remarks are preceded by related comments of the Examiner, presented in small bold-faced type.

2.   Claims 1-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Giordano et al (U.S. PG Pub No. 2002/0152123).

3.   As per claim 1, Giordano et al teach a self-checkout system comprising: a self-checkout station configured for customer-operated self-checkout of items for purchase; a mobile data terminal comprising a wireless network interface and a biometric data sensor; and a controller operatively coupled to the mobile terminal and to the self-checkout station, the controller being configured to send data over a wireless network to the mobile terminal instructing the mobile terminal to initiate a biometric data capture operation, the biometric data capture operation being related to a self-checkout transaction (see paragraphs 0047, 0055, 0056, 0058, 0060-0063).

The Examiner's rejection is respectfully traversed. Contrary to the Examiner's suggestion, Giordano does not teach a self-checkout system as recited by claim 1.

To support a rejection under § 102(e), that the cited prior art reference must disclose each element of the rejected claim in the manner recited by the claim. Giordano, however, does not disclose at least the element of "a controller operatively coupled to the mobile terminal and to the self-checkout station, said controller being configured to send data over a wireless network to the mobile terminal instructing the mobile terminal to initiate a biometric data capture operation, said biometric data capture operation being related to a self-checkout transaction."

What Giordano discloses is a system for monitoring customer behavior and for providing a secure electronic payment in exchange for goods and services. Giordano's system can include a customer transmitter (50) [See 0060] and that transmitter can transmit certain information to a POS device 34 [See 0047]. Giordano also discloses that, in some implementations, that transmitter (50) may also include a biometric input security pad (1160) [See 0060]. However, the operation of Giordano's transmitter (50), and of its biometric input security pad (1160), is not in accordance with claim 1. More particularly, what Giordano discloses in [0060] is that biometric data, such as a fingerprint, can be read by the transmitter (50) and is compared to fingerprint data stored <u>at that transmitter</u> to determine whether the transmitter is to operate or not. Giordano does not suggest, but claim 1 does require, that the capture of such biometric data occurs following an interaction between a controller that is configured to send data over a wireless network to the mobile terminal instructing the mobile terminal to initiate a biometric data capture.

In short, unlike the present application which requires that the biometric data capture be initiated by a controller sending data over a wireless network to the mobile terminal to initiate a biometric data capture operation, Giordano's transmitter appears to perform its capture of

biometric data independent of Giordano's POS system and without the transmission of data over a wireless network to initiated that capture.

For at least the reason that the Examiner has not shown that Giordano teaches or suggests a self checkout system including "a controller operatively coupled to the mobile terminal and to the self-checkout station, said controller being configured to send data over a wireless network to the mobile terminal instructing the mobile terminal to initiate a biometric data capture operation, said biometric data capture operation being related to a self-checkout transaction," a § 102(e) rejection of claim 1 in light of Giordano is not supported. It is respectfully requested that the Examiner withdraw the rejection.

4.   As per claim 2, Giordano et al teach a...

* * *

14.   As per claim 12, Giordano et al teach ...

Claims 2-12 depend, directly or indirectly, on claim 1 and are patentable for at least the reasons cited with respect to claim 1.

15.   As per claim 13, Giordano et al teach a method for self-checkout of items that are sold on a restricted basis, the method comprising: following scanning of an item by a self-checkout customer, retrieving from a database a record indicating whether the scanned item is a restricted item; when the item is a restricted item, verifying a characteristic of the customer, the verifying comprising: receiving a target data input at a biometric sensor, the target data characterizing a biometric feature of the customer; retrieving from a database a plurality of candidate records, each of the records comprising biometric attribute data associated with a different one of a plurality of customers; comparing the target data to the biometric attribute data in the plurality of records to identify a matching record; when a matching record is identified, based on the matched record, determining whether the item sold on a restricted basis can be sold to the customer (see paragraphs 0047, 0055, 0056, 0058, 0060-0063).

The Examiner's rejection is respectfully traversed. Contrary to the Examiner's suggestion, Giordano does not teach a self-checkout method as recited by claim 13.

Contrary to the Examiner's suggestion, Giordano does not appear to disclose a self-checkout system at all. Rather, Giordano is understood as disclosing a "traditional" cashier operated point of sale (POS) system. Furthermore, the cited paragraphs of Giordano do not appear to disclose at least the elements of (1) following scanning of an item by a self-checkout customer, retrieving from a database a record indicating whether the scanned item is a restricted item; (2) when the item is a restricted item, verifying a characteristic of the customer, (3) said verifying comprising receiving a target data input at a biometric sensor, (4) the target data characterizing a biometric feature of the customer; (5) retrieving from a database a plurality of candidate records, each of said records comprising biometric attribute data associated with a different one of a plurality of customers; (6) comparing the target data to the biometric attribute data in the plurality of records to identify a matching record; (7) when a matching record is

identified, based on the matched record, determining whether said item sold on a restricted basis can be sold to the customer.

Because Giordano fails to disclose each of the elements of claim 13 as recited by the claim, rejection under § 102 is not supported and it is respectfully requested that the Examiner withdraw the rejection.

It is further noted that, contrary to MPEP § 707.07, the Office Action does not provide sufficient detail to allow the undersigned to fully understand the basis for the Office's rejection. If the Office maintains that this rejection is appropriate, it is respectfully requested that the Office better explain how the cited portions of Giordano relate to each claim element. For example:

1. Where, specifically, does the Office contend that Giordano discloses that following scanning of an item by a self-checkout customer, there occurs a retrieving from a database of a record indicating whether the scanned item is a restricted item?

2. Where, specifically, does the Office contend that Giordano discloses that when the item is a restricted item there occurs a verifying of a (biometric) characteristic of the customer?

3. Where, specifically, does the Office contend that Giordano discloses receiving target data input at a biometric sensor as a component of verifying a characteristic of a customer when the customer is seeking to purchase a restricted item?

4. Where, specifically, does the Office contend that Giordano discloses that the target data as captured when a customer is seeking to purchase a restricted item as set forth in #3, above, is data characterizing a biometric feature of the customer?

5. Where, specifically, does the Office contend that Giordano discloses determining whether said item sold on a restricted basis can be sold to the customer using a method that includes retrieving from a database a plurality of candidate records, each of said records comprising biometric attribute data associated with a different one of a plurality of customers, comparing the target data to the biometric attribute data in the plurality of records to identify a matching record, and when a matching record is identified, based on the matched record?

It is respectfully submitted that, in the event the Office's rejection of claim 13 is maintained, the Office should fully respond to the foregoing in order to allow the undersigned to appropriately respond to any continuing rejection of the claim.

16. **As per claim 14, ...**

17. **As per claim 15, ...**

18. **As per claim 16, ...**

Claims 14-16 depend, directly or indirectly, on claim 13 and are patentable for at least the reasons cited with respect to claim 13.

19.   As per claim 17, Giordano et al teach a method of processing input at a supervisory terminal in a self-checkout system using a handheld supervisory device, the method comprising:

at a self-checkout station, generating a supervisory request signal indicating that input of customer biometric data is required to further the processing of a self-checkout transaction by a customer, transmitting the supervisory request signal to a handheld supervisory device, the handheld device comprising a biometric sensor; and at the handheld supervisory device, receiving the supervisory request signal,, presenting a prompt alerting a user of the handheld device that input of customer biometric data is necessary; receiving customer biometric data at the biometric sensor; and transmitting the biometric data to the self-checkout station (see paragraphs 0047, 0055, 0056, 0058, 0060-0063).

The Examiner's rejection is respectfully traversed. Contrary to the Examiner's suggestion, Giordano does not teach a self-checkout method as recited by claim 17. For example, the cited paragraphs of Giordano do not appear to disclose at least the element of transmitting biometric data from a handheld supervisory device to a self-checkout station as recited by claim 17. As further explained with respect to claim 1, as understood by the undersigned, Giordano's terminal (50) appears to capture biometric data, but does not thereafter transmit that data to a self-checkout station and does not suggest doing so in the manner recited by claim 17.

For at least the reason that Giordano fails to disclose the capture and transmission of biometric data between a handheld device and a self-checkout station, the rejection of claim 17 under § 102 is not supported. It is respectfully requested that the examiner withdraw the rejection and allow the claim.

It is further noted that, contrary to MPEP § 707.07, the Office Action does not provide sufficient detail to allow the undersigned to fully understand the basis for the Office's rejection. If the Office maintains that this rejection is appropriate, it is respectfully requested that the Office better explain how the cited portions of Giordano relate to each claim element. For example:

1.   Where, specifically, does the Office contend that Giordano discloses, at a self-checkout station, generating a supervisory request signal indicating that input of customer biometric data is required to further the processing of a self-checkout transaction by a customer?

2.   Where, specifically, does the Office contend that Giordano discloses, at a self-checkout station, transmitting the supervisory request signal to a handheld supervisory device, said handheld device comprising a biometric sensor?

3.   Where, specifically, does the Office contend that Giordano discloses, at the handheld supervisory device, receiving the supervisory request signal and presenting a prompt alerting a user of the handheld device that input of customer biometric data is necessary?

4.   Where, specifically, does the Office contend that Giordano discloses, at the handheld supervisory device, receiving customer biometric data at the biometric sensor and transmitting the biometric data to the self-checkout station?

It is respectfully submitted that, in the event the Office's rejection of claim 17 is maintained, the Office should fully respond to the foregoing in order to allow the undersigned to appropriately respond to any continuing rejection of the claim.

20.   As per claim 18, Giordano et al teach ...

Claim 18 depends on claim 17 and is patentable for at least the reasons stated with respect to claim 17.

Conclusions

It is respectfully submitted that the Office's rejections of claims 1-18 under § 102 is not supported because, in each case, at least one element recited by each pending claim is not found in Giordano. Accordingly, the Office's rejection of the claims should be withdrawn.

Claims 1-18 are now pending and believed to be in condition for allowance. Applicant respectfully requests that all pending claims be allowed.

Please apply any credits or excess charges to our deposit account number 50-0521.

Respectfully submitted,

Date: _June 16, 2005_

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